

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

**CIVIL MINUTES - GENERAL**

Case No.	CV 18-3576 PA (SSx)	Date	May 2, 2018
Title	Juan Lozano v. Fleetwash, Inc., et al.		

Present: The Honorable	PERCY ANDERSON, UNITED STATES DISTRICT JUDGE	
Kamilla Sali-Suleyman	Not Reported	N/A
Deputy Clerk	Court Reporter / Recorder	Tape No.
Attorneys Present for Plaintiffs:	Attorneys Present for Defendants:	
None	None	

**Proceedings:** IN CHAMBERS – COURT ORDER

Before the Court is a Notice of Removal filed on April 27, 2018, by defendant Fleetwash, Inc. (“Defendant”). (Docket No. 1.) Defendant asserts that the Court has jurisdiction over this action based on diversity of citizenship. See 28 U.S.C. § 1332.

Federal courts are courts of limited jurisdiction, having subject matter jurisdiction only over those matters authorized by the Constitution and Congress. See, e.g., Kokkonen v. Guardian Life Ins. Co., 511 U.S. 375, 377, 114 S. Ct. 1673, 128 L. Ed. 2d 391 (1994). A suit filed in state court may be removed to federal court if the federal court would have had original jurisdiction over the suit. 28 U.S.C. § 1441(a). A removed action must be remanded to state court if the federal court lacks subject matter jurisdiction. 28 U.S.C. § 1447(c). “The burden of establishing federal jurisdiction is on the party seeking removal, and the removal statute is strictly construed against removal jurisdiction.” Prize Frize, Inc. v. Matrix (U.S.) Inc., 167 F.3d 1261, 1265 (9th Cir. 1999). “Federal jurisdiction must be rejected if there is any doubt as to the right of removal in the first instance.” Gaus v. Miles, Inc., 980 F.2d 564, 566 (9th Cir. 1992).

To invoke this Court’s diversity jurisdiction, Defendant must prove that there is complete diversity of citizenship between the parties and that the amount in controversy exceeds \$75,000. 28 U.S.C. § 1332. A natural person must be a citizen of the United States and be domiciled in a state to establish “state citizenship” for diversity purposes. Kantor v. Wellesley Galleries, Ltd., 704 F.2d 1088, 1090 (9th Cir. 1983). A person is domiciled in the place she resides with the intent to remain or to which she intends to return. See Kanter v. Warner-Lambert Co., 265 F.3d 853, 857 (9th Cir. 2001). “A person residing in a given state is not necessarily domiciled there, and thus is not necessarily a citizen of that state.” Id.

Here, in an effort to establish Plaintiff’s citizenship, the Notice of Removal asserts:

Plaintiff alleges that he resides in the County of Los Angeles. Complaint, ¶1. He was employed in the County of Los Angeles. Complaint, ¶1; Matarazzo Decl., ¶5. . . As such, Plaintiff resides in the state of California,

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and is a citizen of that State for purposes of this jurisdictional analysis.  
[citation omitted].

(Notice of Removal ¶ 11.) However, a person’s residence is not the same as his domicile, so allegations of Plaintiff’s residence and former place of employment do not establish Plaintiff’s citizenship. Kanter, 265 F.3d at 857 (“A person residing in a given state is not necessarily domiciled there, and thus is not necessarily a citizen of that state.”). “Absent unusual circumstances, a party seeking to invoke diversity jurisdiction should be able to allege affirmatively the actual citizenship of the relevant parties.” Id. Therefore, the Notice of Removal does not adequately allege the citizenship of Plaintiff, and Defendant has failed to demonstrate that complete diversity exists.

Because Defendant has not established complete diversity, Defendant has failed to meet its burden to demonstrate the Court’s diversity jurisdiction. Accordingly, the Court remands this action to Los Angeles County Superior Court, Case No. VC066890. See 28 U.S.C. § 1447(c).

IT IS SO ORDERED.